

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
WS COMMUNICATIONS, L.L.C.)	File No. 99030159
)	NAL/Acct. No. X32080007
Licensee of Station KWGL(FM))	Facility ID #58856
Ouray, Colorado)	JJS
)	

FORFEITURE ORDER

Adopted: May 17, 2000

Released: May 18, 2000

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, we issue a four thousand dollar (\$4,000) forfeiture against WS Communications, L.L.C. ("WS"), licensee of station KWGL(FM), Ouray, Colorado, for violations of Section 73.3526 of the Commission's rules, 47 C.F.R. § 73.3526, the Commission's public inspection file rule. WS violated that rule by not maintaining a public inspection file from February 1999 through August 1999. WS also violated the former version of the same rule from December 1997 through October 1998 by failing to keep its public inspection file in its community of license.

2. On March 16, 2000, the Chief, Enforcement Bureau, released a Notice of Apparent Liability for Forfeiture ("NAL") against WS in the amount of ten thousand dollars (\$10,000). WS filed a response.

II. BACKGROUND

3. On February 26, 1999, the Mass Media Bureau received a complaint alleging that both WS and Western Slope Communications, L.L.C. ("Western Slope"), a commonly owned limited-liability company and the licensee of KZKS(FM), Rifle, Colorado, were not in compliance with the Commission's main studio and public inspection file requirements.¹ As a result of that complaint, the Commission sent WS and Western Slope a letter of inquiry concerning both KWGL(FM) and KZKS(FM) on August 3, 1999.²

¹ At the time of the complaint, the call sign of WS's station was KURA(FM). The call sign of the station was changed to KWGL on March 1, 1999. For ease of reference, we will use the current call letters when referring to the station.

² On March 16, 2000, the Chief, Investigations and Hearings Division, Enforcement Bureau disposed of the remaining allegations in the complaint. WS was admonished for violating Section 73.1125(c)(1) of the Commission's rules, 47 C.F.R. § 73.1125(c)(1), which requires a broadcast licensee to notify the Commission when (continued....)

4. WS and Western Slope responded to the Commission's letter of inquiry on September 16, 1999. With respect to KWGL(FM), WS stated that from the time it acquired the station in April 1995 until February 1999, the public inspection file was maintained at its main studio in Ridgway, Colorado. At that time, WS was required to maintain its public inspection file in Ouray, Colorado, its community of license. From February 1999, when WS moved its main studio, through August 1999, WS did not maintain a public inspection file for KWGL(FM) at any location. In August 1999, WS established the public inspection file at the Ouray Public Library in Ouray, Colorado. In September 1999, WS also established its public inspection file at its current main studio location in Montrose, Colorado.

III. DISCUSSION

5. In its response, WS does not dispute that it violated the public file rule as alleged in the NAL. Its argues, however, that WS is unable to pay a \$10,000 forfeiture because it "would have a significant adverse affect upon the stations' ability to operate." See WS Response, p. 2. In support of its argument, WS submits tax returns for 1997, 1998, and 1999 for Western Slope, which owns 99 percent of WS. KWGL(FM) and KZKS(FM) are simulcast. WS represents that all of its and Western Slope's income is reflected on the tax returns.

6. After reviewing the financial information provided by WS, we believe it is appropriate to reduce the forfeiture amount from the \$10,000 proposed in the NAL to \$4,000. WS has shown that during the last three years, it and Western Slope have suffered from an increasingly negative cash flow. Although WS does not separately list the total income for KWGL(FM), WS represents that in 1999, the gross proceeds of sales from advertising time on KWGL were less than \$50,000. In the *Forfeiture Policy Statement*,³ the Commission stated that it "intends to continue its policy of being sensitive to concerns of small entities who may not have the ability to pay a particular forfeiture amount" WS has shown that a \$10,000 forfeiture could have an unduly negative impact on its ability to serve the public. On the other hand, we deny WS's request that we not impose a forfeiture. The financial information WS has provided shows that it and Western Slope have been able to finance its losses. Given WS's total failure to maintain a public inspection file for a six-month period, we believe a forfeiture is an appropriate tool to punish its prior violations and to ensure future compliance with our rules. We believe a \$4,000 forfeiture will act as an appropriate punishment and deterrent without unduly disrupting WS's ability to serve the public.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act, 47 U.S.C. § 503(b), and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's rules,⁴ WS Communications, L.L.C. IS LIABLE FOR A MONETARY FORFEITURE in the amount of four thousand dollars (\$4,000), for its

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it relocates its main studio. With respect to KZKS(FM), the Chief, Investigations and Hearings Division concluded that there was no basis for taking action with regard to alleged violations of the main studio and public inspection file rules. See Letter dated March 16, 2000 from Chief, Investigations and Hearings Division, Enforcement Bureau, to Western Slope and WS.

³ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's Rules*, 12 FCC Rcd 17087, 17107 (1997), *recon. denied* 15 FCC Rcd 303 (1999).

⁴ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

willful and repeated violations of Section 73.3526 of the Commission's rules, 47 C.F.R. § 73.3526.

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within 30 days of the release of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act, 47 U.S.C. § 504(a). Payment may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. referenced above. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554. *See* 47 C.F.R. § 1.1914.

9. IT IS FURTHER ORDERED that a copy of this Notice shall be sent, by Certified Mail/Return Receipt Requested, to Mr. Allen H. Brill, Manager, WS Communications, L.L.C., c/o Brill & Meisel, 488 Madison Avenue, Suite 500, New York, New York 10022.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau